Battered Child Syndrome as Defense

for Murder of Abusive Parent

Linda A. Szymanski, Esq., Director of Legal Research, NCJJ

Use of Battered Child Syndrome as Defense

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Do victims of child abuse have some special justification for murdering their abusive parent? To date, four state Supreme Courts have taken on this issue, with conflicting results.

The term “battered child syndrome” has been adopted as a term of art in the medical community. Abused children are often abused by loved ones over a period of years. Because of this abuse, such children experience feelings of helplessness, fear, isolation and low self-esteem. Battered children are psychologically dependent on their abusers, socially isolated, and fear punishment if they reveal the abuse. Such an abused child cannot imagine any alternatives such as escape.

In the 1980’s, state Supreme Courts did not consider expert testimony on battered child syndrome relevant to the issue of self-defense. For example, the state Supreme Court of Wyoming denied the use of the battered child syndrome defense to a young man who murdered his father, arguing that the son was not in imminent danger from the abusive father at the time of the killing. *Jahnke v. State*, 682 P.2d 991 (1984).

Two Justices dissented from this opinion, stating that the manner in which a battered child perceives his or her situation as it relates to self-defense is an appropriate subject for expert testimony.

In Indiana, in 1988, a young man was found guilty of the murder of his parents. In his case, the state Supreme Court ruled that the fact that he was a victim of an abusive ongoing relationship did not, standing alone, support the self-defense instruction. There must also be a showing of impending danger, which was not the case here. It had been awhile since the last episode of child abuse, and, at the time of the murder, the father was asleep and the mother was in a non-threatening position. *Whipple v. State*, 523 N.E.2d 1363 (1988).

Courts have since come to understand that part of the syndrome is that the battered child sees this “peaceful time” as his or her only chance to end the abuse. Expert testimony explained to the jury that such a child always perceives him or herself to be in great danger. For the battering to end, the batterer must die. The courts’ acceptance of battered woman syndrome, as relevant to the issue of self-defense in the murder of the abuser, led the way to the similar acceptance of battered child syndrome.

In the early 1990’s, a young man was convicted in Washington for the second-degree murder of his stepfather, and he appealed. The Washington Supreme Court held that expert testimony regarding battered child syndrome was generally admissible in appropriate cases to aid in the proof of self-defense. *State v. Janes*, 850 P.2d 495 (1993). The state Court of Appeals and later the state Supreme Court held that the jury needed to hear testimony on battered child syndrome in order to evaluate the reasonableness of the abused child’s perception that he was in imminent danger of death or serious bodily harm at the time he killed his stepfather.

Most recently, in Ohio, a young man appealed his conviction for the murder of his mother. He had been diagnosed with battered child syndrome and the state Supreme Court found that this fact was relevant to his defense. Thus, the court found that although battered child syndrome is not recognized as an independent defense in Ohio, the trial court erred in prohibiting expert testimony on the syndrome in support of a claim of self-defense. *State v. Nemeth*, 694 N.E.2d 1332 (1998).

The modern trend appears to be that children who are victims of abuse do have some special justification for the murder of their abusive parent.